

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

YVONNE WESTBROOK,

Plaintiff,

No. C 05-02424 JSW

v.

**ORDER VACATING CASE  
MANAGEMENT CONFERENCE  
AND SETTING DEADLINES**

JACK IN THE BOX RESTAURANT,

Defendant.

Plaintiff has filed a complaint asserting denial of access under the Americans with Disabilities Act, 42 U.S.C. §§ 12181-89. The Court HEREBY VACATES the case management conference set for September 30, 2005 at 1:30 p.m.

Pursuant to Federal Rule of Civil Procedure 16, the Court HEREBY ORDERS that the following procedures shall apply to this case:

1. Plaintiff shall, pursuant to Federal Rule of Civil Procedure 4(m), forthwith complete service on all necessary defendants. A plaintiff who is unable to complete service on all necessary defendants 60 days may prior to the expiration of that period, file a Motion for Administrative Relief pursuant to Local Rule 7-11 requesting an extension of the schedule required by this Order.
2. Initial disclosures required by Federal Rule of Civil Procedure 269a) shall be completed no later than seven days prior to the joint inspection required by ¶ 3 of this Order. If defendant intends to dispute liability based on the construction or alteration history of the subject premises, defendant shall disclose all information in defendant's possession or control regarding the construction or alteration

1 history of the subject premises. All other discovery and proceedings are  
2 STAYED unless this Court orders otherwise.

- 3 3. No later than 100 days after the date of this Order, the parties and their counsel,  
4 accompanied by their experts if the parties so elect, shall meet in person at the  
5 subject premises. They shall jointly inspect the portions of the subject premises  
6 which are claimed to violate the Americans With Disability Act.
- 7 4. At the joint inspection or within 10 business days thereafter, the parties, and their  
8 experts if the parties so elect, shall meet in person and confer regarding  
9 settlement of the action. The meet and confer obligation cannot be satisfied by  
10 telephone or by exchanging letters. At the conference, the parties shall discuss  
11 all claimed premises violations. Plaintiff shall specify all claimed premises  
12 violations and the desired remediation. With respect to each claimed violation,  
13 defendant shall specify whether defendant is willing to remediate and whether  
14 defendant agrees with plaintiff's proposed remediation or has an alternate  
15 proposal. If defendant claims any proposed remediation is not readily  
16 achievable, defendant shall specify the factual basis for this claim.
- 17 5. If the parties reach a tentative agreement on remediation, plaintiff shall forthwith  
18 provide defendant with a statement of damages, if any, claimed under California  
19 law, and of costs and attorney's fees incurred to date, and made a demand for  
20 settlement of the case in its entirety.
- 21 6. If within 45 days from the joint site inspection, the parties cannot reach an  
22 agreement on remediation, or cannot settle the damages and fees claims, plaintiff  
23 shall file a "Notice of Need for Mediation" with this Court. The matter will then  
24 be automatically referred to mediation and the ADR Department will schedule a  
25 mediation as soon as possible. The mediator shall have the authority to preside  
26 over settlement negotiations that address all issues presented by this matter,  
27 including requests for injunctive relief and attorney's fees. Should a settlement  
28 be reached, the mediator shall ensure that the parties make a written or audio

1 record of the essential terms of the settlement sufficient to permit any party to  
2 move to enforce the settlement should it not be consummated according to its  
3 terms. Should any settlement be conditioned upon future conduct such as  
4 remediation, this Court will retain jurisdiction to enforce that component of the  
5 settlement.

6 7. If the case does not resolve at mediation, plaintiff shall within seven calendar  
7 days of the mediation, file a Motion for Administrative Relief pursuant to Local  
8 Rule 7-11 requesting a case management conference.

9 8. Any party who wishes to be relieved of any requirement of this Order may file a  
10 Motion for Administrative Relief pursuant to Local Rule 7-11.

11 The Court FURTHER ORDERS Plaintiff to serve this Order on Defendant and all other  
12 necessary defendants in this case.

13 **IT IS SO ORDERED.**

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15 Dated: July 26, 2005

16 /s/ Jeffrey S. White  
17 JEFFREY S. WHITE  
18 UNITED STATES DISTRICT JUDGE  
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